

**U.S. Environmental Protection Agency Institutional Controls Tracking System
U.S. Environmental Protection Agency Regional Focus Group**

June 26 - 27, 2002
Washington, DC
Hilton Garden Inn

Purpose

The purpose of this focus group was to gather the expertise of the United States Environmental Protection Agency's Regional Offices on the subject of electronic tracking systems for institutional controls (ICs). The focus group also provided a forum for regional participants to share their opinions on the challenges of IC tracking.

The participants are listed below:

Mike Bellot, U.S. Environmental Protection Agency (EPA)/Office of Emergency and Remedial Response (OERR)

Larry Zaragoza, EPA/OERR

John Frisco, EPA Region 2

Peter Schaul, EPA Region 3

Beverly Hudson, EPA Region 4

Jim Mayka, EPA Region 5

Donald Bruce, EPA Region 5

Debra Potter, EPA Region 5

Wren Stenger, EPA Region 6

Steve Wyman, EPA Region 6

Glenn Curtis, EPA Region 7

Rebecca Thomas, EPA Region 8

Nancy Blank, EPA Region 8

Bob Fitzgerald, EPA Region 9

Matt Small, EPA Region 9

John Schweiss, EPA Region 10

K.C. Schefski, EPA/Office of Enforcement and Compliance Assurance (OECA)

Carlos Lago, EPA/Office of Solid Waste (OSW)

Joe Vescio, EPA/Office of Underground Storage Tanks (OUST)

Bob Cribbin, U.S. Army Corps of Engineers (USACE)

Maureen Findorff, Marasco-Newton Group (MNG)

Stephen Merrill Smith, DynCorp

Matthew Hayduk, DynCorp

Aditya Mane, DynCorp

After welcoming participants, the focus group host from EPA/OERR presented EPA's IC experience, research, challenges, planned activities, proposed approach, and other policy-related tracking activities. EPA/OERR also shared the results of the data collection pilot, the need for more intergovernmental partnerships to better track ICs, and the objectives of the EPA IC

Tracking System. EPA/OERR communicated that EPA is working on a comprehensive, national IC tracking system with common data elements and definitions that EPA can freely share.

EPA/OERR reflected on the direction of the current and planned IC activities – the information collection request, workshops, focus groups, data entry pilots, and a national IC conference. EPA/OERR discussed the EPA Headquarters Focus Group, which met on June 5, 2002, and the State and Tribal Focus Group, which met June 18 - 19, 2002. EPA/OERR explained the relationship of these previous focus groups to the Regional Focus Group (the group). EPA/OERR also discussed some issues that they expected to address in the upcoming focus group for other federal agencies (e.g., post record of decision authority and how that relates to IC tracking). EPA/OERR also summarized the importance of developing guidance and suggested a schedule for review of guidance currently in development.

At the end of the presentation, the facilitator initiated the discussion of data categories, stating that the goal of the discussion was to eliminate excess data categories from the Data Category Comparison Matrix (the matrix). The facilitator outlined the following three-tier grading scheme so that participants could assign a tier to each data category:

Tier 1: Data categories that the proposed system must track regardless of cost or difficulty.

Tier 2: Data categories that should be tracked if the benefits of tracking outweigh the costs.

Tier 3: Data categories that should be tracked only if they are made available for free, and can be easily integrated into the proposed system.

The facilitator presented the matrix comparing elements tracked by state systems to the participants, and explained the color key:

Color	Meaning
Green	A match between a possible EPA data category and a data category that a state system is already using
Light Orange	No match between a possible EPA data category and the data categories used by a state system – light orange data categories are also labeled “not available”
Dark Orange	A data category tracked by a state system, but not listed as one of EPA’s possible data categories
Teal	A data category tracked by state systems, but not on the EPA list of possible data categories because the category is tracked by EPA in another system such as CERCLIS/WasteLAN

The facilitator also explained that the matrix is divided into six sections that address different aspects of ICs that may need to be tracked:

- Appendix 1 involves site information,
- Appendix 2 involves IC selection,
- Appendix 3 involves IC implementation,
- Appendix 4 involves IC monitoring and enforcement,
- Appendix 5 involves IC costs, and
- Appendix 6 involves Geographic Information System (GIS) layers that may accompany IC information.

The facilitator said that she wanted to know what the participants thought of the information in those appendices. For instance, she suggested that the participants ask questions about what different data categories mean, whether those categories are important to track, and how important they are to track (i.e., are they Tier 1, 2, or 3?).

Appendix 1

A question was asked if GIS layers would accompany Appendix 1, and whether the system had a GIS component or was itself a GIS application. EPA/OERR explained that this was not decided, and the discussion would help to decide what should be tracked in a web-based manner. EPA/OERR elaborated that the proposed system would offer multiple data entry points and layered information, but that there is no architecture for the system yet – just a conceptual design.

The facilitator said that there were initial thoughts on how the system would be put together but no architectural plans were made, and no requirements have been written. This discussion would be a first-look at the universe of data categories and potential sources for the data. She said that questions that needed to be asked were ‘how much data are available’, and ‘how good are the existing data’. This discussion focused on the ‘what’ rather than the ‘how’. EPA/OERR stated that once the stakeholders decide what is needed, the ‘how’ can be determined a lot easier.

A comment was made that the definition of the Hazardous Substances data category was too broad and, because there might be many associated with site, one could populate the proposed system quickly but inaccurately. The group agreed that the focus should be those hazardous substances that are being controlled by the IC. It was also stated that most of the data that are available in existing sources might be of questionable quality, even for Appendix 1.

The Engineered Control/Remedy data category from Appendix 1 was a concern. Participants pointed out that the engineered controls may have a lifetime as long as the IC (*e.g.*, a cap) and the group suggested that EPA find a way to accommodate this concern. A question arose about the distinction between the “Engineered Control/Remedy” data category in Appendix 1 and the “Remedy Protected By IC” data category in Appendix 2. EPA/OERR answered that the former data category related to general site information.

There was also a concern that engineered controls should be mapped, for there might be sites of 650 acres that contained a hazardous substance across only 10 acres. Another concern was raised regarding the amount of general information that should be in the tracking system. The facilitator said that the list was a laundry list and not all categories will be tracked; this was a

“whittle-the-data-categories-down exercise,” and that the issues remaining were:

- What is critical?
- What is cost-effective?
- What is needed to respond to Congressional inquiries?

One participant asked that the Record of Decision (ROD) be linked to the IC. The facilitator explained that this could be covered as part of the Appendix 2 category: Objective of IC and brought the discussion back to the unanswered question of whether the group should outline all contaminants at site or only those associated with the IC. It was noted that Appendix 1 was important but it should be restricted to those categories that are easy to populate, available, and basic. EPA/OERR thought this was a good suggestion.

In summary, all of the data categories in Appendix 1 were marked as Tier 1 – as core data categories that are essential to EPA’s proposed tracking system.

Appendix 2

IC Identifier

EPA/OERR said that this identifier is needed to overcome the current inability to get accurate counts of ICs at sites by Operable Unit (OU) and media. ICs may involve multiple media, and some queries of data for the Savannah River site which has many OUs give inaccurate results depending on the query logic used. A unique identifier would enable counting of ICs at the appropriate level. One participant asked whether this would cover each IC regardless of number of parcels and media. EPA/OERR replied in the affirmative.

It was requested that the unique identifier be an addition to the site ID number. One participant questioned whether existing identifiers from existing databases would be re-engineered or whether a new number would be generated. A participant suggested that there might be a way to integrate IC identifiers with CERCLIS identifiers, perhaps by repeating some portion of the CERCLIS identifier within the IC identifier in a way that would be intuitive – even to users with little CERCLIS experience.

One participant stated that EPA needs to be mindful of avoiding large amounts of data entry. Increasing the burden would probably affect data quality. As a philosophy, a bad system would be created if it was too large, and a better system would use a minimum number of data categories and would depend on data owners for data entry.

The facilitator suggested that the group should work on defining categories (i.e., what is included and what is not). It was agreed that the group must define the data categories alike or the discussion would make no progress.

EPA/OERR said that in deciding which data categories were important, the participants must think about the queries that would be run on the data in such a system (i.e., the kinds of questions that would be asked by the users). Municipalities would use the system before making land use

decisions, and developers would use the system before digging/drilling on the property. Queries that involved important data categories would prevent exposure.

Participants repeated the point that the IC ID should be intuitive in nature. One example given was of a system in which each document has an identity number and a name allowing users to get to the entry point of the data. One suggestion was IC Name as the equivalent. It would be meaningful if the acronym of the document was used in the ID – if the number contained information in itself, and the system should tie the ID to the site name. This category was Tier 1.

IC Description, IC Category, IC Sub-Category

EPA/OERR asked that the participants refer to Table B of the IC Focus Groups Concept Paper (Draft): IC Category & IC Sub-Category for examples. One participant stated that only EPA would use the IC Category data category, and that real world queries hinged upon the IC Sub-Category. There was disagreement on this issue.

The facilitator said that the IC Description was not related to Table B, and would include the actual name of the IC. EPA/OERR clarified that it would probably develop a drop-down list for this data category and populate the drop-down list with the various different types of ICs (listed in Table B) that a user could select. Alternatively, an EPA consultant suggested that an open text field could be provided for users to write their own descriptions of ICs.

The facilitator asked whether using Table B would make detailed text information on the IC Description redundant. For example, what would be the benefit of a text field? Would a Portable Document Format (PDF) file of the actual document remove the need for any further information? EPA/OERR thought that including a copy of the actual document in the system would be useful. One participant pointed out that while Table B was a fairly comprehensive drop-down menu, the ‘Other’ sub category should remain a text field in order to specify the information.

The IC Sub-Category was a concern. One participant stated that from a legal standpoint it is often difficult to determine what type of sub-category a proprietary controls falls within. Differences between proprietary controls are often a matter for legal or technical experts, and labeling instruments incorrectly may result otherwise. Also, there was a concern that definitions may need to change over time, or conversely, that definitions must not be allowed to change over time. The facilitator reiterated the comment that initial mis-characterizations would cause problems at a later stage.

EPA/OERR asked whether a general category would be good at the Record of Decision (ROD) stage, especially if remedial project managers (RPMs) want flexibility. If an IC is to be protective, the specifics must be considered in a detailed manner at the ROD stage. Also, if IC decisions change over time, dates must be tracked. EPA/OERR suggested a history log.

A date field should be included for the history log, as well as the IC Description category and the Name of Instrument.

One participant asked if the unique IC ID would be aimed at implemented ICs or at anticipated and planned ICs. This question was asked because planned ICs are not always implemented. One participant preferred the system be aimed at implemented ICs, explaining that many of the data categories cannot be populated at the planning stage. The facilitator said that the Wisconsin database from the previous focus group did not track ICs until they were implemented. EPA/OERR said that in some cases, the proposed system could help site managers in the planning stage of the IC, but populating categories would depend on the information available at the planning stage. The use of flags were suggested to indicate planned or actual information. From a need perspective, the group agreed that IC planning information was important for inclusion in the proposed system. Although it was asked that the level of detail be reduced and that there be some separation between planned and implemented information, all agreed that information on planned ICs should be entered in the tracking system. The facilitator asked if revisions or modifications to the ICs should be tracked as well. All agreed that yes, this was a good idea, too.

The group discussed that it would be useful to populate the database with information about ICs not in use and why they were not in use. EPA/OERR was concerned that this might prove to be a burden to data owners. One participant asked if this information and the reason could be placed up front. The facilitator said that this was useful information but questioned how much it would add to the workload burden. This was critical information that a Resources For the Future (RFF) study had targeted, and it was important to know why ICs were not implemented, thereby increasing effectiveness.

One participant said that an IC's effectiveness was tied to implementation, and that if an IC was called for but not implemented, it may require a ROD Amendment or an Explanation of Significant Difference (ESD). This is an example of why it is important to track planned but unimplemented ICs.

One participant questioned whether the actual decision document would be accessible in the system. The facilitator replied that this would be covered in the Appendix 3 data category – IC Called for by Decision Document. This question was linked back to the previous discussion in that it would be useful to see the exact IC requirement when gauging why ICs were not implemented. EPA/OERR agreed. It was added that it would strengthen data validity when audits were conducted.

The facilitator brought the discussion back to Table B and asked whether the proposed list contained the correct mix of sub-categories.

One participant commented that some would be useful and some were typical but there was too much detail. Field users would not use the sub-categories to their fullest because they would not always know the detailed distinctions (i.e., the specific type of easement). The facilitator said that some finessing may need to take place to make them intuitive. One participant suggested that each sub-category should be better defined. EPA/OERR said that including planned ICs allowed reporting at every stage of the IC life cycle and allowed site managers to avoid choosing instruments that could not be implemented locally, as is the case with some easements in certain

states. The facilitator suggested that definitions would help users but training might also be needed. The group agreed that “IC Sub-Category” was Tier 1.

Media of Concern

The group agreed that this was a Tier 1 category.

The group had some concerns on the inclusion of Air as a media category, but EPA/OERR said that it had been included to make the list inclusive.

One participant stated that the distinction between surface soil and deep soil is not always universal, and the same was apparent for ground water and surface water. Specificity could be left to the ROD calling for the IC and that definitions may vary by ROD. EPA/OERR agreed.

Some participants suggested that swamps and wetlands be included in this category.

IC Objective(s)

EPA/OERR stated that this data category was aimed at documenting the objectives of the IC at the ROD stage of the IC life cycle. One participant asked if this would include environmental protection. EPA/OERR clarified that ICs generally are meant to control human behavior, and that ICs minimize exposure to contamination while mechanical controls minimize emissions.

One participant had never seen the term, IC Objective. EPA/OERR responded that EPA Guidance finalized in 2000 introduced this concept. EPA/OERR will ensure that the guidance and the tracking system use the same list of IC objectives.

The group did not agree on what Tier the “IC Objective(s)” category should be.

Remedy Protected by IC

EPA/OERR explained that this category would help answer the question of whether the IC is protecting an engineered control or not.

One participant pointed out that most states do not currently track this information. The facilitator explained that like Contacts, most states considered this information intuitive. She also said that many states were going back from the previous week’s focus group meeting with ideas on how their systems could be improved. This data category was among those categories picked for improvement within state tracking systems.

A definition issue came up as to whether ICs were remedy components or whether they could be considered remedy protectors. EPA/OERR said that regardless of the actual definition, what mattered most is what the IC was used for. The facilitator tied this back to the IC Objective data category, which could be at a higher level.

One participant questioned whether an ICs could protect an entire remedy, because ICs leave waste in place, and remedies (in his mind) involve total cleanup – without the use of ICs. Two participants asked how natural attenuation would fit into this dichotomy. EPA/OERR responded

that this data category refers to instances where the IC protected aspects of the remedy such as the cap. EPA/OERR said that many ICs protect remedies and criticism on ICs says that the IC is the remedy. Dividing ICs in the manner previously stated protects from criticism.

A question arose about whether this data category referred only to an engineered control being protected. The group discussed this and concluded that the ultimate aim of ICs was to prevent human exposure to contaminants. A participant then suggested, that in light of this, perhaps EPA should convert this data category to a sub-category of IC Objective.

One participant questioned the ultimate purpose of this data category. EPA/OERR replied that this would allow them to tabulate what percentage of ICs were human-based and what percentages were remedy-based. Failure in either case would allow EPA to know the level of exposure. The benefit of this field would be the match-up of the various remedies at the site with their associated ICs.

EPA/OERR said that this data category could be linked to the engineered control flag and the group allocated “Remedy Protected by IC” a Tier 2 rating.

Activity or Use Limitation of IC

The group digressed for a few minutes to discuss what they referred to as “Must-Have Data Categories.” One participant referred to the pilot project in the City of Oakland, CA, where a field was added to the Building Permits database. Activating this field for a site meant that the land developer had to further investigate the restrictions at the site. An outline of the restrictions was not provided in the database.

The facilitator brought the group back to the data category at hand, “Activity or Use Limitation,” and this led to a lengthy discussion of the One-Call-before-you-dig pilot project.

It was suggested that the “IC Description” overlapped somewhat with “Activity or Use Limitation” and therefore might not be a critical category. A participant added that there were too many data categories. However, it was noted that a large majority of the categories were Tier 1. One participant stated that importing data from CERCLIS was a must. It was suggested that the proposed system’s site ID could be the same as the CERCLIS ID. Another participant said that importing data from other program databases such as RCRAInfo would make standardization difficult because they use different IDs than CERCLIS. It was agreed that the proposed system would need unique identifiers. A suggestion was made to use EPA IDs. One participant pointed out that there was some overlap between this category, the “Risk Factors,” and the “Anticipated Land Use” data categories. He suggested using one “Use Limitation” category instead because most states have this information rather than the other categories. Another participant expressed concern that some of the use limitations needed clarification. There was also some concern within the group that a single easement may contain many restrictions so the data relationship should allow one instrument to be associated with many restrictions.

The group agreed that “Activity or Use Limitation” was a Tier 1 category.

Hazardous Materials on Site

One participant said that the system must make this category a subset of the similar category in Appendix 1.

The group consensus was that this was a Tier 1 category.

IC Area

One participant suggested this category overlaps with “IC Boundary” and “Parcel Number.” It was pointed out that lot and block provided the best legal definition. Boundary is the most important of the three categories, and the public would likely query the system by parcel numbers. A participant said that data regarding “IC Area” should feed into the One-Call project to help reduce the number of false negatives produced by One-Call systems. EPA/OERR said that the area of the IC was a general category as determined by the ROD, but the boundary would require specific coordinates, which would be most useful.

Someone identified an issue regarding the area of the ground water plume and the boundary of the site and which one EPA should include on a map. The use of a Global Positioning System (GPS) would assist in determining boundaries. The group recognized the need and availability of GIS technology, but questioned the funding and the time required. The usefulness of the data hinged upon it being geo-referenced and presented as web-based layers. A conference call was suggested to follow-up on this issue. The Region 5 system was suggested as a tool to map areas of contamination, but the need for standardized data with minimum number of standards was recognized.

The group determined that the rolled-up category of “IC Area,” “IC Boundary” and “Parcel Number(s)” was Tier 1, with the emphasis on “IC Boundary.”

Conveyance of Property Rights to EPA

One participant pointed out that by statute, EPA cannot accept these rights during construction of the remedy. Another participant noted that this category might be helpful to EPA but confusing to the average user. The group agreed that in general, this category would not be very useful, and was at best Tier 2.

State 104(j) Assurances

One participant felt that EPA HQ needed to ensure that these were received. EPA/OERR thought this enforcement data category may need to be tracked. It was not awarded a Tier rating.

Third Party Enforcement

One participant suggested it was more important to know the enforcement party, and this information could be bundled into the subsequent data category. EPA/OERR clarified that this information could be obtained at the ROD stage. The group agreed this was a Tier 3 category.

Risk Factors; Anticipated Future Land Use

The group skipped this because of the previous discussion of these data categories in Activity Restricted, above.

Contact

One participant thought this information was not useful in Appendix 2 as this would be the same person that wrote the ROD – which is in CERCLIS. This person asked for clarification and the facilitator explained that the IC selection contact is different than the IC implementation contact, and that the contact currently being discussed was the IC selection contact.

The facilitator explained how the State and Tribal Focus Group had pointed out that developers wanted contact information. But one participant felt this information would be hard to keep updated (as people change jobs), unless a consent decree specified that this information must be updated. This participant urged that it would make sense for EPA to have one site contact. The group agreed that yes, EPA contacts should be listed, and that a link should be provided to state and local contacts. The group agreed this was a Tier 3 category.

Appendix 3

IC ID

The group agreed this was Tier 1.

IC Called for in Decision Documents

EPA/OERR explained this data category for the group. There are instances identified in the data collection pilot where ICs were implemented that were not called for in the decision document. One participant stated that if EPA's remedy did not rely upon such an IC, why should it be tracked. The facilitator explained that if a developer logs into the EPA tracking system and thinks he has everything, but does not have everything, that it may hurt EPA's credibility. One participant disagreed with this point, saying that the tracking system was a EPA management tool and not a public information system. Another participant said that if EPA did not do a ROD Amendment, then EPA should not be tracking it. Other participants agreed with this.

EPA/OERR queried this participant's observation and asked how not tracking this data category would square with the Office of Solid Waste and Emergency Response (OSWER) Assistant Administrator's expressed desire to be comprehensive. An EPA consultant said that local agencies might want this information included and if the information is free, then it should be considered for inclusion in the proposed system.

One participant asked how this category was different from "IC Description." EPA/OERR said that this category is a yes or no field; IC description involves source definition. A participant said that we can guarantee EPA data quality but not data imported from other systems.

One participant pointed out that the community is concerned about remedies so this category goes some way toward alleviating their concerns. The facilitator said that the system must differentiate between internal management and external outreach. Another participant said it would be impossible to be 100 percent comprehensive concerning the data on the system, so caveats such as 'Contact Zoning Board' such be allowed.

One participant talked about the Underground Storage Tank (UST) program which depends upon non-EPA parties. Nearly all (99%) of UST and RCRA ICs would be lost if this information category were not tracked. People would wonder, “What is the premise that the remedy depends upon?” A participant responded that the UST program does not write its own decision documents, and the participant was unsure how the data would reach EPA’s proposed system. It was suggested that the system could be used as a tool for each state, or a link could be created to the California and Delaware UST databases.

The facilitator suggested that the lines between programs seemed blurred at the state level as was evident from the state tracking systems. One suggestion was to use the EPA web site to link to State systems.

The group moved on without assigning a Tier number to this data category.

Duration

One participant questioned whether ICs are ever permanent and gave this category a Tier 1 rating. Some participants noted that Department of Energy ICs containing certain types of radiation could certainly be considered permanent. A comment was made that land owners would want to know if ICs are temporary.

A question was asked as to how duration is evaluated, and whether this was done during the Five-Year Review.

A participant commented that this category should be rolled into the category linked to Termination. A comment was that termination information was not known during implementation, so placing this category at Appendix 3 would be incorrect. A participant suggested ‘Estimated Duration’ replace Duration and gave it a Tier 1 rating. EPA/OERR said that this information would inform users that the IC is temporary. Another participant agreed that the categories be rolled into Duration.

The facilitator concluded that the group wanted to separate Duration and Termination information and gave this category a Tier 1 rating.

Implementing Party

The group agreed this was Tier 1.

Implementation Issues

One participant thought this was not an appropriate category for tracking in the database.

A comment was made that only the unresolved, EPA-related issues be tracked, which would receive a Tier 1 rating; the regions agreed that they would find this useful.

The facilitator said that not all categories would be available to the public and this may be one of them. The group gave “Implementation Issues” a Tier 1 rating.

Modification Information

This field would include a date field and history of the IC if it was changed. The group said this was a Tier 1 category.

IC Implementation Documents

One suggestion was that PDFs could be used to display IC implementation documents, and that links could be established with state document management systems. The availability of electronic documents would relieve some of the burden on the RPM. One participant asked that the IC language and enforcement language be pulled out and be entered into the database rather than include the documents in their entirety.

It was agreed that this information should be accessible in some form, and one participant suggested a conference call for regions to have specific input.

One participant suggested that there should be a document hierarchy, as some documents were of lesser importance. There was agreement on this issue, but one participant wanted the IC instrument available electronically.

The group agreed on Tier 1 for the IC instrument and Tier 2 for other implementation documents.

Contacts

The facilitator asked if EPA or an outside party was responsible for the contact information. One participant said that the latter would be. Two participants agreed that it was important for EPA to maintain information for implementation contacts. Superfund contacts would be relatively easy to maintain but UST and others would be more difficult.

One participant said that contact information must be subject to periodic update cycles.

Concerns about multiple contacts, and also targeting needs of the different users of the system, were expressed.

EPA/OERR said it may be sufficient to place a PDF document of the implemented IC in this section instead of entering contact information. One participant said that it was important to know who is in charge down the line. It was suggested that each appendix could offer multi-agency contacts. One comment was that relying on sources for contact information would be counterproductive unless an agreement was signed, or agencies were ordered to provide this information regularly.

Ultimately, the group thought that the system should track multiple contacts, and that to do so deserved a Tier 1 ranking. One participant pointed out that EPA is relying on a lot of people, so it might make sense to identify one central contact with primary responsibility in the implementation plan.

Appendix 4

IC ID

The group agreed that this was Tier 1.

IC Monitoring Requirements

EPA/OERR said that this category would specify the different types of monitoring required for ICs.

One participant thought this was an important Tier 1 category.

Another participant was concerned that certain proprietary ICs may need to be re-recorded periodically and whether this category would capture this information. It was suggested that this information be captured in the Duration category. Another suggestion was the Modification category. One participant said that the Duration category would more effectively capture this information as certain actions like re-recording need to keep occurring. EPA/OERR said that this information could be specified when choosing the IC Sub-Category.

The facilitator tabled the discussion of Appendix 4 for day two, and began the Roundtable Discussion.

Roundtable Discussion

One participant suggested that Tier 1 be further divided into Tiers 1A and 1B, and also asked participants to evaluate which were the top ten elements that must be tracked, and also to evaluate the support they received. The participant said that a bigger system will have a smaller chance of success and that data entry and update will consume the most resources. Another participant agreed, and said that data ownership issues could play an important role in determining data quality.

A suggestion was made that EPA investigate the state of ICs before building a whole new system or overhauling CERCLIS. EPA/OERR described the IC Light prototype and told the participants about the data collection pilot that would be conducted at the regional level to evaluate the cost and benefits of collecting and entering data.

A participant restated that GIS was an essential Tier 1 data category. The GIS component would take a little time to build, but it is important.

One participant asked how the vision of the IC project relates to OSWER's one cleanup program vision. A participant replied that this was the first step, and that ICs were the most concrete component of the one cleanup program concept.

One participant asked about the time lines. EPA/OERR replied that two years was the envisioned time frame. A comment was made that in view of the long term stewardship responsibilities, perhaps EPA could phase in the system along with Five-Year Reviews that occur at sites.

One participant suggested that EPA start the system with CERCLIS information in order to ease the start-up process. EPA/OERR replied that IC Light would use information available from CERCLIS. Another participant warned of the lessons learned from an Environmental Indicators system where regions had to populate the system; otherwise, credit was not allocated. One participant responded that incentives to encourage use of a tracking system would have to be determined. One participant commented that a compulsory system would drain resources and not ensure high data quality. The vision of the information was to serve the community and respond to management and Congressional inquiries. Proof that ICs are working and that EPA is fulfilling its mandate would allow better resource allocation in the long run.

Two participants were concerned about the RPM workload, and wondered how RPMs would fit data entry into their schedules. One participant said that decentralized data entry was essential, and wondered if the system could extract the relevant information from source documents or whether the database would create a standardized data entry template. The systems must fit neatly into the overall business process and this would go a long way in ensuring success. It was also said that historical data population would be more difficult than future sites.

Another participant said that the proposed system would be an important tool against criticisms such as the RFF study, and also from those who see cleanup as the only valid option for EPA. The system will allow people to feel more comfortable about ICs (i.e., that they are being protected from exposure). Responsible parties would like it because the system would allow them to see a light at the end of the tunnel, and improve redevelopment opportunities. Other systems like One-Call would help outreach efforts in protecting human health. It was suggested that EPA look into funding through incentives to responsible parties and also local governments with a large number of ordinances and zoning issues. EPA/OERR commented that many of these issues would be tackled at a National IC Conference in 2003.

At this point, the facilitator adjourned the focus group and discussed briefly what she hoped to accomplish during the second day.

Second Day

Region 10 presented their RAINS system, and Region 6 presented their Web BRIMS system.

Appendix 4

Monitoring Party

A participant asked if this category refers to the primary monitoring party. EPA/OERR responded that this was correct. A participant asked if the party responsible for maintaining the IC such as re-registering the IC, is the monitoring party. EPA/OERR responded yes, but the PRP may have responsibility for maintenance and EPA may have consent decree requirements for monitoring as well.

The group agreed this was a Tier 1 category.

Monitoring Frequency

EPA/OERR said that the current guidance suggests annual certification by the responsible party. The question was raised concerning when implementation stops and monitoring begins. One participant said that different monitoring requirements have different monitoring parties. The issue of maintaining ICs remained. EPA/OERR said that EPA was considered the primary monitoring party at the Five-Year Review stage. Consent decrees may require EPA monitoring but responsible parties would be considered primary parties.

The facilitator asked whether an up-front registration fee should be charged such as the Missouri SMARS VCP IC registration fee. The comment was made that those ICs were temporary ones and would eventually drop out. VCP sites also allowed selective media cleanup.

One participant thought that EPA responsibility for monitoring should be allocated a Tier 1, whereas other parties could be considered Tiers 2 or 3. EPA/OERR said that even where EPA was not the monitoring party, knowing who is responsible is important.

A participant said that “Monitoring Frequency” was good information, and in some ways, monitoring findings was one of the most important categories. However from the perspective of RPM workload, many categories might be excessive. Another participant said that the devil was in the details in this case; only once the system was built would the real benefits start emerging. There was a concern about what was practical in terms of data collection and the request was made that the regional burden be minimized.

One participant thought that data derived from other systems can make life easier, and once this was determined, it would help determine what the real burden was. Only then can the group figure out the real Tier 1 categories.

Another participant commented that there was some overlap between monitoring contacts and enforcement contacts.

The group had general concerns about using local contact information. Generic department

contacts could be provided. One participant suggested that where multiple contact information was provided, they should be labeled as primary or secondary. EPA should not be responsible for updating non-EPA contacts and a disclaimer should say so.

One participant noted that the majority of questions about ICs would be directed to the RPM, the most knowledgeable contact of the site. The proposed system would aid the RPM in directing questions to alternative, more appropriate contacts. It was suggested that the public outreach component should not use detailed names, just generic contact information and party information.

Monitoring Findings

EPA/OERR said that frequency of monitoring was a one-time data entry category. It was added that the date of the last monitoring findings could be generated every monitoring cycle. One participant thought it would be useful if a calendar was set up for upcoming monitoring requirements.

A participant asked about which date would be provided for monitoring findings. EPA/OERR answered that this date should be the same as the monitoring completion date.

A participant asked whether the findings would be a text box, a PDF document, or a Yes/No field. One proposal was that the question aim at a Yes/No answer to minimize data entry with the question being “Were monitoring requirements met?”

The group agreed this was a Tier 1 category.

CERCLA Five-Year Review

One participant suggested a PDF copy of the Five Review be available through the system. It was also suggested that the checklist that accompanies the Five-Year Review be placed into this category. One participant thought this was a good opportunity to coordinate with Five-Year Review reports.

The group assigned a Tier 2/Tier 3 for this category.

Notification Provisions for IC Breach

There was concern that the provisions might not actually be the action taken in the event of an IC breach. One participant thought that procedures were unnecessary for the system; notification of the breach was a more useful category.

The group thought this was a Tier 2 category, possibly Tier 3.

IC Breach

One participant thought it would be important to know who breached the IC.

The group gave this category a Tier 1 rating.

Land Use Change

EPA/OERR specified that this category related to the IC and its level of protectiveness.

One participant wondered if breaches and land use changes would be tracked in the previous category: IC Breach, and considers this information to be of a Tier 1 level. Another participant agreed.

One comment made was that this information related to assumptions made during IC selection and implementation. Things change and it is not easy keeping up with most up-to-date information. It was also said that an annual monitoring check could capture this information.

The group said this was a Tier 1 category.

Enforcing Party

A participant thought it may be a good idea to include this information in the proposed system, because no other system documents enforcement information.

Another participant said that because the legal instrument drives all enforcement, merely placing a PDF of the instrument should suffice.

The comment was made that the ISIS system contains lots of enforcement information. Although unsure of the details, the participant believes a field can be added to inform which documents have ICs in them and the system could track by site ID. Another participant was in favor of checking enforcement databases like ISIS to avoid multiple data entry. It was suggested that this information be tracked through a link to such databases.

Enforcement Authority, IC-Related Enforcement Action, and IC-Related Enforcement Action Resolution

One participant said that there was not immediate need for such documents. Some participants noted that one already knows the authority by virtue of what type of an IC it is. Again it was pointed out that ISIS contains all this information. EPA/OERR said they would check with OECA and if it is tracked in ISIS and CERCLIS.

The group thought these were Tier 2, while expressing concerns that enforcement documents be tracked in enforcement databases. At most, the group thought that links to the enforcement databases could be provided in the IC tracking system.

IC Cost Appendix

One participant thought it would be difficult to get cost information from PRP-lead sites. EPA could get estimated information on Fund-lead sites but PRPs could not be ordered to hand over this information.

Another participant mentioned that states and local governments who implement and monitor ICs frequently received no payoff if no settlement is outlined. Locals would want

reimbursement if actual costs could be drawn up. Local governments have expressed concern that their cost burden has remained unacknowledged.

Local governments must be handed responsibility over certain parts of the system, and in return, cost information can be shared. EPA/OERR said that this one system approach will ensure greater participation at the local level. One participant said that an electronic approach will ensure cost-effectiveness. Another participant encouraged that a pilot system be implemented.

The group agreed that this was a difficult-to-obtain, Tier 1 category.

GIS Appendix

One participant thought this information would be most useful at the local level, especially if developers input their coordinates and can check on land use restrictions. Another participant was mindful of confidentiality and sensitivity issues.

Adjournment

EPA/OERR thanked the participants for attending and sharing their thoughts, and then closed the focus group discussion.